

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

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In re :
 : **Chapter 11**
 :
CRABTREE & EVELYN, LTD., :
 :
 : **Case No. 09-14267 (BRL)**
Debtor. :
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**ORDER CONFIRMING FIRST AMENDED PLAN
OF REORGANIZATION UNDER CHAPTER 11 OF THE BANKRUPTCY CODE,
AS MODIFIED ON JANUARY 12, 2010**

The above-captioned debtor and debtor in possession (the “Debtor”) having proposed the First Amended Plan of Reorganization Under Chapter 11 of the Bankruptcy Code, dated November 17, 2009 (the “November 17 Plan”) and having filed the First Amended Plan of Reorganization Under Chapter 11 of the Bankruptcy Code dated November 17, 2009, as modified on January 12, 2010 (the “Plan,” a copy of which (without exhibits) is attached hereto as Appendix 1);¹ the Bankruptcy Court having conducted a hearing to consider confirmation of the Plan on January 14, 2010 (the “Hearing”); the Bankruptcy Court having considered: (i) the testimony of the witnesses called or proffered at the Hearing, as well as the documents admitted into evidence at the Hearing, (ii) the arguments of counsel presented at the Hearing, (iii) the objections filed with respect to confirmation of the Plan, (iv) the resolution and settlement of all objections to confirmation of the Plan, (v) the Declaration of Stephenie Kjontvedt of Epiq Bankruptcy Solutions, LLC Regarding Voting on, and Tabulation of, Ballots Accepting and Rejecting First Amended Plan of Reorganization Under Chapter 11 of the Bankruptcy Code (the “Voting Declaration”, Docket No. 284), and (vi) the Debtor’s Memorandum of Law in Support

¹ All capitalized terms used but not defined herein have the meanings given to them in the Plan.

of Confirmation of First Amended Plan of Reorganization Chapter 11 of the Bankruptcy Code and Consolidated Reply to Certain Objections to Confirmation (the “Confirmation Memorandum”); the Bankruptcy Court being familiar with the Plan and other relevant factors affecting this Chapter 11 Case pending under the Bankruptcy Code; the Bankruptcy Court having taken judicial notice of the entire docket of the Debtor’s Chapter 11 Case maintained by the Clerk of the Bankruptcy Court and/or its duly appointed agent, and all pleadings and other documents filed, all orders entered, and evidence and arguments made, proffered or adduced at, the hearings held before the Bankruptcy Court during the pendency of the Chapter 11 Case; the Bankruptcy Court having found that due and proper notice has been given with respect to the Hearing and the deadlines and procedures for filing objections to the Plan; the appearance of all interested parties having been duly noted in the record of the Hearing; and upon the record of the Hearing, and after due deliberation thereon, and sufficient cause appearing therefor;

IT IS HEREBY FOUND AND CONCLUDED, that:

JURISDICTION AND VENUE

A. The Bankruptcy Court has jurisdiction over this matter and this Chapter 11 Case pursuant to 28 U.S.C. § 1334.

B. Confirmation of the Plan is a core proceeding pursuant to 28 U.S.C. § 157(b)(2)(L), and this Bankruptcy Court has jurisdiction to enter a final order with respect thereto.

C. The Debtor is a proper debtor under section 109 of the Bankruptcy Code, and the Debtor is a proper proponent of the Plan under section 1121(a) of the Bankruptcy Code.

MODIFICATIONS OF THE PLAN

D. The modifications to the November 17 Plan (the “Modifications”) constitute technical changes and do not materially and adversely affect or change the treatment

of any Claim against or Interest in the Debtor. Pursuant to section 1127(a) of the Bankruptcy Code and Bankruptcy Rule 3019(a), the Modifications do not require additional disclosure under section 1125 of the Bankruptcy Code or the resolicitation of acceptances or rejections of the Plan under section 1126 of the Bankruptcy Code, nor do they require that holders of Claims against the Debtor be afforded an opportunity to change previously cast acceptances or rejections of the November 17 Plan. The filing of the Plan and the disclosure of the Modifications therein constitute due and sufficient notice thereof under the circumstances of the Chapter 11 Case. Accordingly, the Plan is properly before the Bankruptcy Court, and all votes cast with respect to the November 17 Plan prior to the Modifications shall be binding and shall apply with respect to the Plan.

**STANDARDS FOR CONFIRMATION
UNDER SECTION 1129 OF THE BANKRUPTCY CODE**

E. The evidentiary record of the Hearing and the Confirmation Memorandum support the findings of fact and conclusions of law set forth in the following paragraphs.

F. **Section 1129(a)(1)**. The Plan complies with each applicable provision of the Bankruptcy Code. In particular, the Plan complies with the requirements of sections 1122 and 1123 of the Bankruptcy Code as follows:

1. In accordance with section 1122(a) of the Bankruptcy Code, Article III of the Plan classifies each Claim against and Interest in the Debtor into a Class containing only substantially similar Claims or Interests;
2. In accordance with section 1123(a)(1) of the Bankruptcy Code, Article III of the Plan properly classifies all Claims and Interests that require classification.
3. In accordance with section 1123(a)(2) of the Bankruptcy Code, Article III of the Plan properly identifies and describes each Class of Claims and Interests that is not impaired under the Plan;

4. In accordance with section 1123(a)(3) of the Bankruptcy Code, Article III of the Plan properly identifies and describes the treatment of each Class of Claims that is impaired under the Plan;

5. In accordance with section 1123(a)(4) of the Bankruptcy Code, the Plan provides the same treatment for each Claim or Interest of a particular Class unless the holder of such a Claim or Interest has agreed to less favorable treatment;

6. In accordance with section 1123(a)(5) of the Bankruptcy Code, the Plan provides adequate means for its implementation;

7. In accordance with section 1123(a)(6) of the Bankruptcy Code, the Reorganized Debtor's charter, bylaws or comparable constituent documents contain provisions prohibiting the issuance of non-voting equity securities and providing for the appropriate distribution of voting power among all classes of equity securities authorized for issuance;

8. In accordance with section 1123(a)(7) of the Bankruptcy Code, the provisions of the Plan and the Reorganized Debtor's charter, bylaws or comparable constituent documents regarding the manner of selection of officers and directors of the Reorganized Debtor are consistent with the interests of creditors and equity security holders and with public policy;

9. In accordance with section 1123(b)(1) of the Bankruptcy Code, Article III of the Plan impairs or leaves unimpaired, as the case may be, each Class of Claims and Interests;

10. In accordance with section 1123(b)(2) of the Bankruptcy Code, Article V of the Plan provides for the assumption, assumption and assignment, or rejection of the Executory Contracts or Unexpired Leases of the Debtor that have not been previously assumed, assumed and assigned, or rejected pursuant to section 365 of the Bankruptcy Code and orders of the Bankruptcy Court;

11. In accordance with section 1123(b)(3) of the Bankruptcy Code, Section 4.9 of the Plan provides that the Reorganized Debtor will retain and may enforce any claims, demands, rights and causes of action that the Debtor or its Estate holds or may hold against any Entity, including any Recovery Actions and any currently pending actions (unless otherwise released under the Plan);

12. In accordance with section 1123(b)(5) of the Bankruptcy Code, Article III of the Plan modifies or leaves unaffected, as the case may be, the rights of certain holders of Claims in Classes 1 and 3;

13. In accordance with section 1123(b)(6) of the Bankruptcy Code, the Plan includes additional appropriate provisions that are not inconsistent with applicable provisions of the Bankruptcy Code; and

14. In accordance with section 1123(d) of the Bankruptcy Code, Section 5.2 of the Plan provides for the satisfaction of Cure Amount Claims associated with each Executory Contract or Unexpired Lease to be assumed pursuant to the Plan in accordance with section 365(b)(1) of the Bankruptcy Code. All Cure Amount Claims will be determined in accordance with the underlying agreements and applicable law.

G. **Section 1129(a)(2)**. The Debtor has complied with the applicable provisions of the Bankruptcy Code, the Bankruptcy Rules, and the orders of this Bankruptcy Court with respect to the solicitation of acceptances or rejections of the Plan, including, without limitation, sections 1125 and 1126 of the Bankruptcy Code and Bankruptcy Rules 3017, 3018 and 3019, thus satisfying the requirements of section 1129(a)(2) of the Bankruptcy Code. In particular, the Plan complies with the requirements of sections 1125 and 1126 of the Bankruptcy Code as follows:

1. In compliance with the Order (I) Approving the Disclosure Statement, (II) Approving the Notice of Disclosure Statement Hearing; (III) Fixing Voting Record Date; (IV) Approving the Notice and Objection Procedures in Respect of Confirmation of the Plan and Fixing the Date of the Confirmation Hearing; (V) Approving Solicitation Packages and Procedures for Distribution Thereof; (VI) Approving the Forms of Ballots and Establishing Procedures for Voting on the Plan; (VII) Approving the Form of Notice to Non-Voting Classes Under the Plan; (VIII) Fixing the Voting Deadline to Accept or Reject the Plan; and (IX) Approving the Procedures for Vote Tabulations (the “Disclosure Statement Approval Order”, Docket No. 240), on or before December 3, 2009, the Debtor, through its claims and notice agent, Epiq Bankruptcy Solutions, LLC (“Epiq”) caused copies of the following materials to be transmitted to all holders of Claims in Classes that were entitled to vote to accept or reject the Plan (*i.e.*, Claims in Classes 3 and 4):

- notice of the Confirmation Hearing (the “Confirmation Hearing Notice”);
- the Disclosure Statement (together with the exhibits thereto, including the Plan);

- the Disclosure Statement Approval Order (excluding exhibits thereto);
- the Creditors' Committee's letter recommending acceptance of the Plan (to holders of Claims in Class 3); and
- an appropriate Ballot (collectively with the materials described in the preceding bullets, the "Solicitation Package"). See Affidavit of Service by Epiq at ¶¶ 3(a) and 3(b) (Docket No. 252) (the "Epiq Service Affidavit").

2. In compliance with the Disclosure Statement Approval Order, on or before December 3, 2009, the Debtor, through Epiq, transmitted (a) the Confirmation Hearing Notice, and (b) the Disclosure Statement (together with the exhibits thereto, including the Plan) to the parties listed on the Master Service List (as such term is defined in the Order Pursuant to Section 105(a) of the Bankruptcy Code and Bankruptcy Rules 1015(c) and 9007 to Implement Certain Notice and Case Management Procedures). See Epiq Service Affidavit at ¶ 3(c).

3. In compliance with the Disclosure Statement Approval Order, on or before December 3, 2009, the Debtor, through Epiq, transmitted (a) the Confirmation Hearing Notice and (b) a notice of non-voting status to all holders of Claims and Interests in the non-voting classes (*i.e.*, Classes 1, 2 and 5) that were not entitled to vote on the Plan. See Epiq Service Affidavit at ¶ 3(d).

4. In compliance with the Disclosure Statement Approval Order, on or before December 3, 2009, the Debtor, through Epiq, transmitted the Confirmation Hearing Notice to, among others, holders of Administrative Claims, Priority Tax Claims, and parties to Executory Contracts and Unexpired Leases. See Epiq Service Affidavit at ¶ 3(e).

5. The Confirmation Hearing Notice provided due and proper notice of the Hearing and all relevant dates, deadlines, procedures and other information relating to the Plan and/or the solicitation of votes thereon, including, without limitation, the voting deadline, the objection deadline, and the time, date and place of the Hearing.

6. All persons entitled to receive notice of the Disclosure Statement, the Plan and the Hearing have received proper, timely and adequate notice in accordance with the Disclosure Statement Approval Order, applicable provisions of the Bankruptcy Code and the Bankruptcy Rules, and have had an opportunity to appear and be heard with respect thereto.

7. The Debtor solicited votes with respect to the Plan in good faith and in a manner consistent with the Bankruptcy Code, the Bankruptcy

Rules and the Disclosure Statement Approval Order, including, without limitation, the inclusion of a letter from the Creditors' Committee recommending acceptance of the Plan in the Solicitation Package. Accordingly, the Debtor is entitled to the protections afforded by section 1125(e) of the Bankruptcy Code and the exculpation provisions set forth in Section 9.4 of the Plan.

8. Claims and Interests in Classes 1, 2 and 5 under the Plan are unimpaired, and such Classes are deemed to have accepted the Plan pursuant to section 1126(f) of the Bankruptcy Code.

9. The Plan was voted on by the two Classes of impaired Claims that were entitled to vote pursuant to the Bankruptcy Code, the Bankruptcy Rules and the Disclosure Statement Approval Order (*i.e.*, Classes 3 and 4).

10. Epiq has made a final determination of the validity of, and tabulation with respect to, all acceptances and rejections of the Plan by holders of Claims entitled to vote on the Plan, including the amount and number of accepting and rejecting Claims in Classes 3 and 4 under the Plan. See Voting Declaration, Exhibits A and B.

11. Each of Classes 3 and 4 have accepted the Plan by at least two-thirds in amount and a majority in number of the Claims in such Classes actually voting. See Voting Declaration, Exhibit A.

H. **Section 1129(a)(3)**. The Plan has been proposed in good faith and not by any means forbidden by law. The Chapter 11 Case was filed with an honest belief that the Debtor was in need of reorganization and the Plan was negotiated and proposed with the intention of accomplishing a successful reorganization, and for no ulterior purpose. The Plan fairly achieves a result consistent with the objectives and purposes of the Bankruptcy Code. In so finding, the Bankruptcy Court has considered the totality of the circumstances in this Chapter 11 Case. The Plan is the result of extensive good faith, arms' length negotiations between the Debtor and certain of its principal constituencies (including the Creditors' Committee, KKKOI, the DIP Lender and their respective representatives) and reflects substantial input from the principal constituencies having an interest in the Chapter 11 Case and, as evidenced by the overwhelming

acceptance of the Plan, achieves the goal of consensual reorganization embodied by the Bankruptcy Code.

I. **Section 1129(a)(4)**. No payment for services or costs and expenses in or in connection with the Chapter 11 Case, or in connection with the Plan and incident to the Chapter 11 Case, has been or will be made by the Debtor other than payments that have been authorized by order of the Bankruptcy Court. Pursuant to Section 2.2.2(a) of the Plan, all payments to be made to professionals or other entities asserting a Professional Fee Claim for services rendered before the Effective Date will be subject to review and approval by this Bankruptcy Court.

J. **Section 1129(a)(5)**. The Debtor has disclosed in Section 4.4 of the Plan and on Exhibit C to the Plan the identities of the officers and directors of the Reorganized Debtor. The compensation of the Reorganized Debtor's directors will be consistent with the Reorganized Debtor's applicable constituent documents. The Debtor disclosed (1) the affiliations of its proposed directors and officers and (2) the compensation of any insiders to be employed or retained by the Reorganized Debtor at or prior to the Confirmation Hearing. The proposed directors and officers for the Reorganized Debtor as set forth in Section 4.4 of the Plan and on Exhibit C to the Plan are qualified, and the appointments to, or continuance in, such officers by the proposed directors and officers is consistent with the interests of holders of Claims and Interests and with public policy.

K. **Section 1129(a)(6)**. The Plan does not provide for any changes in rates that require regulatory approval of any governmental agency.

L. **Section 1129(a)(7)**. The Plan satisfies section 1129(a)(7) of the Bankruptcy Code. The liquidation analysis set forth in Exhibit C to the Disclosure Statement and

other evidence proffered or adduced at the Hearing (a) are persuasive and credible, (b) have not been controverted by other evidence, and (c) establish that each holder of a Claim in an impaired Class either (i) has accepted the Plan or (ii) will receive or retain under the Plan, on account of such Claim, property of a value, as of the Effective Date of the Plan, that is not less than the amount that it would receive if the Debtor were liquidated under Chapter 7 of the Bankruptcy Code on such date.

M. **Section 1129(a)(8)**. The Plan has been accepted by all impaired Classes of Claims. As set forth in the Voting Declaration, Classes 3 and 4 have accepted the Plan. Accordingly, with respect to the Classes of these Claims, the requirements of section 1129(a)(8) of the Bankruptcy Code have been satisfied.

N. **Section 1129(a)(9)**. The Plan provides treatment for Administrative Claims, Priority Tax Claims and Priority Non-Tax Claims that is consistent with the requirements of section 1129(a)(9) of the Bankruptcy Code.

O. **Section 1129(a)(10)**. The Plan has been accepted by all Classes of impaired Claims that are entitled to vote on the Plan (*i.e.*, Classes 3 and 4), determined without including any acceptance of the Plan by any “insider.” See Voting Declaration, Exhibit A and C.

P. **Section 1129(a)(11)**. The Plan is feasible, within the meaning of section 1129(a)(11) of the Bankruptcy Code. The Debtor’s projections of the capitalization and financial information of the Reorganized Debtor as of the Effective Date are reasonable and made in good faith, the Reorganized Debtor is deemed to be solvent as of the Effective Date, and confirmation of the Plan is not likely to be followed by the liquidation or the need for the further financial reorganization of the Debtor. The Debtor has demonstrated a reasonable assurance of the Plan’s prospects for success.

Q. **Section 1129(a)(12)**. The Plan provides that fees payable pursuant to 28 U.S.C. § 1930 plus accrued interest under 31 U.S.C. § 3717 will be paid by the Debtor on or before the Effective Date. After the Effective Date, all fees payable pursuant to section 28 U.S.C. § 1930 plus accrued interest under 31 U.S.C. § 3717 shall be paid by the Reorganized Debtor in accordance therewith until the closing of the Chapter 11 Case pursuant to section 350(a) of the Bankruptcy Code.

R. **Section 1129(a)(13)**. To the extent section 1129(a)(13) is applicable to the Debtor, the Plan complies with section 1129(a)(13) by providing for the assumption of any benefit plan subject to section 1114.

S. **Section 1129(b)**. All of the Classes have (i) voted to accept the Plan, or (ii) are unimpaired under the Plan. Accordingly, section 1129(b) is satisfied.

T. **Section 1129(c)**. The Plan is the only plan that has been filed in the Chapter 11 Case that has been found to satisfy the requirements of subsections (a) and (b) of section 1129 of the Bankruptcy Code. Accordingly, the requirements of section 1129(c) of the Bankruptcy Code have been satisfied.

U. **Section 1129(d)**. No party in interest has requested that the Bankruptcy Court deny confirmation of the Plan on grounds that the principal purpose of the Plan is the avoidance of taxes or the avoidance of the application of section 5 of the Securities Act, and the principal purpose of the Plan is not such avoidance. Accordingly, the Plan satisfies the requirements of section 1129(d) of the Bankruptcy Code.

V. **Executory Contracts and Unexpired Leases**. Pursuant to sections 365 and 1123(b)(2) of the Bankruptcy Code, Article V of the Plan provides for the assumption, assumption and assignment, or rejection of certain Executory Contracts and Unexpired Leases,

subject to and upon the occurrence of the Effective Date. The Debtor's determinations regarding the assumption, assumption and assignment or rejection of Executory Contracts and Unexpired Leases are based on and within the sound business judgment of the Debtor, are necessary to the implementation of the Plan and are in the best interests of the Debtor, its Estate, holders of Claims and other parties in interest in the Chapter 11 Case. The Debtor has provided adequate assurance of future performance with respect to the Executory Contracts and Unexpired Leases to be assumed and/or assigned pursuant to Article V of the Plan. The Debtor has filed Exhibit D to the Plan (as it may have been amended or supplemented) and has provided notice to counterparties of the Debtor's determinations regarding the assumption, assumption and assignment or rejection of Executory Contracts or Unexpired Leases and any related Cure Amount Claims.

W. **Plan Releases**. Each non-Debtor party that will benefit from the releases, exculpations and related injunctions set forth in Article IX of the Plan (collectively, the "Plan Releases") either shares an identity of interest with the Debtor, was instrumental to the successful prosecution of the Chapter 11 Case and/or provided substantial consideration to the Debtor, which value will allow for Distributions that would not otherwise be available but for the contributions made by such non-Debtor parties. The Plan Releases are, individually and collectively, integral to, and necessary for the successful implementation of, the Plan, essential to the Debtor's reorganization and supported by reasonable consideration. Releases of non-Debtor parties pursuant to Section 9.3 of the Plan (1) are binding upon creditors (a) that have accepted the Plan and/or (b) to the extent enforceable by applicable law and (2) were appropriately disclosed by the Debtor both in the Disclosure Statement and on each Ballot mailed to creditors. The Debtor and all creditors that voted to accept the Plan have expressly consented to the Plan

Releases and no party has objected to the Plan Releases. Accordingly, in light of all of the circumstances, the Plan Releases satisfy the applicable standards contained in In re Metromedia Fiber Network, Inc., 416 F.3d 136 (2d Cir. 2005) and are fair to the releasing parties.

ACCORDINGLY, IT IS HEREBY ORDERED, ADJUDGED AND DECREED, AS FOLLOWS:

1. **Confirmation of the Plan.** The Plan and each of its provisions (whether or not specifically approved herein) are CONFIRMED in each and every respect, pursuant to section 1129 of the Bankruptcy Code; provided, however, that if there is any direct conflict between the terms of the Plan and the terms of this Confirmation Order, the terms of this Confirmation Order shall control. The Effective Date of the Plan shall occur on the date determined by the Debtor when the conditions set forth in Section 8.1 of the Plan have been satisfied or waived pursuant to Section 8.2 of the Plan. Any objections or responses to confirmation of the Plan and the reservation of rights contained therein that (a) have not been withdrawn, waived or settled prior to the entry of this Confirmation Order or (b) are not cured by the relief granted herein are hereby OVERRULED in their entirety and on their merits, and all withdrawn objections or responses are hereby deemed withdrawn with prejudice.

2. **Confirmation Order Binding on All Parties.** In accordance with section 1141(a) of the Bankruptcy Code and notwithstanding any otherwise applicable law, upon the occurrence of the Effective Date, the terms of the Plan and this Confirmation Order shall be binding upon, and inure to the benefit of: (a) the Debtor; (b) the Reorganized Debtor; (c) any and all holders of Claims or Interests (irrespective of whether such Claims or Interests are impaired under the Plan or whether the holders of such Claims or Interests accepted, rejected or are deemed to have accepted the Plan); (d) any other person giving, acquiring or receiving property

under the Plan; (e) any and all non-Debtor parties to Executory Contracts or Unexpired Leases with the Debtor; and (f) the respective heirs, executors, administrators, trustees, affiliates, officers, directors, agents, representatives, attorneys, beneficiaries, guardians, successors or assigns, if any, of any of the foregoing. On the Effective Date, all settlements, compromises, releases (including, without limitation, the Plan Releases), waivers, discharges, exculpations and injunctions set forth in the Plan shall be effective and binding on all Persons who may have had standing to assert any settled, released, discharged, exculpated or enjoined causes of action, and no other Person or entity shall possess such standing to assert such causes of action after the Effective Date.

3. **Findings of Fact and Conclusions of Law.** The findings of fact and conclusions of law of the Bankruptcy Court set forth herein and at the Confirmation Hearing shall constitute findings of fact and conclusions of law pursuant to Bankruptcy Rule 7052, as made applicable herein by Bankruptcy Rule 9014, and the findings and conclusions of the Bankruptcy Court at the Confirmation Hearing are incorporated herein by reference. To the extent any finding of fact shall be determined to be a conclusion of law, it shall be so deemed, and vice versa.

4. **General Authorizations.** Under Bankruptcy Code section 1142(b) and the terms of the Plan, the Debtor and the Reorganized Debtor, as the case may be, and any officer thereof, are authorized, without the need for further approval from the Bankruptcy Court or otherwise, to take all actions necessary or appropriate to implement the Plan, including completion of the Restructuring Transactions and other transactions contemplated by the Plan and the implementation and consummation of contracts, instruments, releases and other agreements or documents created in connection with the Plan.

5. **Vesting and Transfer of Assets.** On the Effective Date, except as otherwise provided in the Plan (and subject to the Restructuring Transaction provisions of Section 4.2 of the Plan), all property of the Estate of the Debtor, and any property acquired by the Debtor or Reorganized Debtor under the Plan, will vest in the Reorganized Debtor, free and clear of all Claims and Encumbrances.

6. **Continued Corporate Existence.** The Debtor shall, as a Reorganized Debtor, continue to exist after the Effective Date, with all the powers of a corporation or company under applicable law and without prejudice to any right to alter or terminate such existence (whether by merger, dissolution or otherwise) under applicable state law. In addition, the Reorganized Debtor may operate its business free of any restrictions imposed by the Bankruptcy Code, the Bankruptcy Rules or the Bankruptcy Court, subject only to the terms and conditions of the Plan as well as the documents and instruments executed and delivered in connection therewith, including without limitation, the Plan Exhibits. The Reorganized Debtor shall be responsible for filing required post-confirmation reports and paying quarterly fees due to the Office of the United States Trustee.

7. **Corporate Governance Documents.** The forms of the Certificate of Incorporation and By-Laws, each substantially in the form as filed with the Plan Supplement, satisfy the provisions of the Plan and the Bankruptcy Code.

8. **Approval of Discharge of the Debtor.** The Plan discharge provision set forth in Section 9.1 of the Plan is approved in all respects, is incorporated herein in its entirety, is so ordered and shall be immediately effective on the Effective Date of the Plan without further order or action on the part of the Bankruptcy Court or any other party. Pursuant to sections 524 and 1141(d) of the Bankruptcy Code and except as otherwise expressly specified in the Plan,

upon the Effective Date, this Confirmation Order shall act as a discharge of all debts of, Claims against, and liens on the Debtor, its respective assets and properties, arising at any time before the Effective Date, regardless of whether a proof of Claim with respect thereto was filed, whether the Claim is Allowed, or whether the holder thereof votes to accept the Plan or is entitled to receive a distribution under the Plan. Except as otherwise expressly specified in the Plan, after the Effective Date, any holder of such discharged Claim shall be precluded from asserting against the Debtor, the Reorganized Debtor, or any of their respective assets or properties, any other or further Claim based on any document, instrument, act, omission, transaction, or other activity of any kind or nature that occurred before the entry of this Confirmation Order. Notwithstanding anything in the Plan, Disclosure Statement or this Confirmation Order to the contrary, the Parent Debt, Interests, and Outstanding Customer Gift Card Obligations shall not be discharged pursuant to the Plan, Disclosure Statement or this Confirmation Order.

9. **Injunction.** As of the Effective Date, except as otherwise expressly provided in the Plan, this Confirmation Order, or a separate order of the Bankruptcy Court, all Persons or Entities who have held, hold, or may hold a Claim or Claims against the Debtor that arose before or were held as of the Effective Date, are permanently enjoined, on and after the Effective Date, from (i) commencing or continuing in any manner any action or other proceeding of any kind against or affecting the Debtor, its Estate or its assets, with respect to any such Claim, (ii) the enforcement, attachment, collection, or recovery by any manner or means of any judgment, award, decree, or order against the Debtor or the Reorganized Debtor on account of any such Claim, (iii) creating, perfecting, or enforcing any Encumbrance of any kind against the Debtor or the Reorganized Debtor or against the property or interests in property of the Debtor

on account of any such Claim, (iv) asserting any right of setoff, or subrogation of any kind against any obligation due from the Debtor or the Reorganized Debtor or against the property or interests in property of the Debtor on account of any such Claim; and (v) commencing or continuing in any manner any action or other proceeding of any kind on account of or in connection with or with respect to any such Claims released or settled pursuant to the Plan. Such injunction shall extend to successors of the Debtor (including, without limitation, the Reorganized Debtor) and their respective properties and interests in property. Such injunction shall not apply in respect of Administrative Claims incurred in the ordinary course of the Debtor's business.

10. **Releases and Exculpation.**

(a) The Plan Releases set forth in Section 9.3 of the Plan, among others, are approved in all respects, are incorporated herein in their entirety, are so ordered and shall be immediately effective on the Effective Date of the Plan without further order or action on the part of the Bankruptcy Court, any of the parties to such releases or any other party.

(b) **Releases by the Debtor.** On the Effective Date, and notwithstanding any other provisions of the Plan, the Debtor and the Reorganized Debtor, on behalf of themselves and the Estate, shall be deemed to release unconditionally (i) all of their respective officers, directors, partners, advisors, attorneys, financial advisors, accountants, and other professionals, (ii) KLK, as DIP Lender, ultimate sole interest holder and ultimate parent of the Debtor and Reorganized Debtor, (iii) the officers, directors, principals, members, employees, partners, subsidiaries, affiliates, advisors, attorneys, financial advisors, accountants, and other professionals of KLK, (iv) KLKOI, as prepetition lender, (v) the officers, directors, principals, members, employees, partners, subsidiaries, affiliates, advisors, attorneys, financial advisors,

accountants, and other professionals of KKKOI, (vi) the members of the Creditors' Committee, (vii) the officers, directors, principals, members, employees, partners, subsidiaries, affiliates, advisors, attorneys, financial advisors, accountants, and other professionals of the Creditors' Committee, (collectively the "Released Parties," and each a "Released Party") from any and all Claims, obligations, suits, judgments, damages, rights, causes of action and liabilities whatsoever, whether known or unknown, foreseen or unforeseen, existing or hereafter arising, in law, equity or otherwise, based in whole or in part upon actions taken solely in their respective capacities described above or any omission, transaction, agreement, event, or other occurrence taking place on or before the Effective Date in any way relating to the Debtor, the Chapter 11 Case, the Plan, or the Disclosure Statement; provided, however, that (a) no Person or Entity shall be released from any act or omission that constitutes gross negligence or willful misconduct, (b) the Reorganized Debtor shall not relinquish or waive the right to assert any of the foregoing as a legal or equitable defense or right of set-off or recoupment against any Claims of any such persons asserted against the Debtor, (c) the foregoing release shall not apply to any obligations that remain outstanding in respect of any obligations under the Exit Facility outstanding as of the Effective Date, and (d) the foregoing release applies to the Released Parties solely in their respective capacities described above. Notwithstanding anything in the Plan or this Confirmation Order to the contrary, on the Effective Date, the Reorganized Debtor shall be deemed to waive and release any actions arising under section 547 of the Bankruptcy Code relating to any preference actions held by any Debtor or its Estate or any Reorganized Debtor against any Entity.

(c) **Releases by Holders of Claims and Equity Interests.** On the Effective Date, and notwithstanding any other provisions of the Plan, (i) Persons who directly or

indirectly, have held, hold, or may hold Claims or Interests who voted to accept the Plan, and (ii) to the fullest extent permissible under applicable law, as such law may be extended or interpreted subsequent to the Effective Date, all Persons who directly or indirectly, have held, hold, or may hold Claims or Interests, shall be deemed, by virtue of their receipt of Distributions and/or other treatment contemplated under the Plan, to have forever released and covenanted with the Reorganized Debtor and the Released Parties not to (y) sue or otherwise seek recovery from any of the Reorganized Debtor or any Released Party on account of any Claim, including but not limited to any Claim based upon tort, breach of contract, violations of federal or state securities laws or otherwise, based upon any act, occurrence, or failure to act from the beginning of time through the Effective Date in any way related to the Debtor or its business and affairs or (z) assert against any of the Reorganized Debtor or any Released Party any Claim, obligation, right, cause of action or liability that any holder of a Claim or Interest may be entitled to assert, whether known or unknown, foreseen or unforeseen, existing or hereafter arising, based in whole or in part on any act or omission, transaction, or occurrence from the beginning of time through the Effective Date in any way relating to the Debtor, the Chapter 11 Case, or the Plan; provided, however, (i) the foregoing release will not apply to obligations arising under the Plan, (ii) the foregoing release will not apply to any act or omission that constitutes willful misconduct or gross negligence as determined by a Final Order, (iii) the foregoing release will not be construed to prohibit a party in interest from seeking to enforce the terms of the Plan, and (iv) nothing in this Confirmation Order or the Plan shall effect a release of any claim by the United States Government or any of its agencies or any state and local authority arising under the Internal Revenue Code, federal securities laws, the environmental laws or any criminal laws of the United States or any state and local authority against the Released Parties, nor shall anything in

this Confirmation Order or the Plan enjoin the United States or any state or local authority from bringing any claim, suit, action or other proceedings against the Released Parties for any liability so arising under the Internal Revenue Code, federal securities laws, the environmental laws or any criminal laws of the United States or any state or local authority, nor shall anything in this Confirmation Order or the Plan exculpate any party from any liability to the United States Government or any of its agencies or any state and local authority arising under the Internal Revenue Code, federal securities laws, the environmental laws or any criminal laws of the United States or any state and local authority against the Released Parties (provided that the foregoing shall in no way affect or limit the discharge or injunction granted to the Debtor under sections 524 and 1141 of the Bankruptcy Code). Notwithstanding anything in the Plan, Disclosure Statement or this Confirmation Order to the contrary, holders of the Parent Debt or Interests shall not release any Claims on account of the Parent Debt or Interests in the Debtor, respectively.

(d) **Exculpation.** The Debtor, the Reorganized Debtor, and the Released Parties (i) shall have no liability whatsoever to any holder or purported holder of a Claim or Interest for any act or omission in connection with, or arising out of, the Plan, the Disclosure Statement, the negotiation of the Plan, the negotiation of the documents included in the Plan Supplement, the Restructuring Transactions, the pursuit of approval of the Disclosure Statement or the solicitation of votes for confirmation of the Plan, the Chapter 11 Case, the consummation of the Plan, the administration of the Plan or the property to be distributed under the Plan, or any transaction contemplated by the Plan or Disclosure Statement or in furtherance thereof except for any act or omission that constitutes willful misconduct or gross negligence as determined by a Final Order, and (ii) in all respects, shall be entitled to rely upon the advice of

counsel with respect to their duties and responsibilities under the Plan. This exculpation shall be in addition to, and not in limitation of, all other releases, indemnities, exculpations and any other applicable law or rules protecting the Released Parties from liability.

(e) **Injunction With Respect to Released Parties**. Pursuant to section 105 of the Bankruptcy Code, no holder or purported holder of a Claim or Interest shall be permitted to commence or continue any action, employment of process, or any act to collect, offset, or recover any Claim against a Released Party that accrued on or prior to the Effective Date and that has been released or waived pursuant to the Plan.

11. **Exemption From Taxation.**

(a) Pursuant to section 1146(a) of the Bankruptcy Code, the following shall not be subject to any stamp tax or similar tax: (1) the creation of any mortgage, deed of trust, lien or other security interest; (2) the making or assignment of any lease or sublease; (3) any Restructuring Transaction; or (4) the making or delivery of any deed or other instrument of transfer under, in furtherance of or in connection with the Plan, including any merger agreements, agreements of consolidation, restructuring, disposition, liquidation or dissolution, deeds, bills of sale or assignments executed in connection with any Restructuring Transaction pursuant to the Plan.

(b) All filing and recording officers are hereby directed to accept for filing or recording all instruments of transfer to be filed and recorded in accordance with the Plan without payment of any such taxes. Notice of entry of this Confirmation Order in the form approved by the Bankruptcy Court shall (a) have the effect of an order of the Bankruptcy Court, (b) constitute sufficient notice of the entry of this Confirmation Order to such filing and recording officers, and (c) be a recordable instrument notwithstanding any contrary provision of

applicable nonbankruptcy law. This Bankruptcy Court retains jurisdiction to enforce the foregoing direction by contempt proceedings or otherwise.

(c) Any transfers of owned or leased real property undertaken pursuant to the Plan or the Restructuring Transactions are specifically for the purpose of reorganizing and restructuring the Debtor under the Bankruptcy Code and shall not trigger (a) any increase in applicable real property taxes or (b) a reappraisal of any real property so transferred.

12. **Executory Contracts and Unexpired Leases.**

(a) The Executory Contract and Unexpired Lease provisions of Article V of the Plan are specifically approved in all respects, are incorporated herein in their entirety and are so ordered. The Debtor is authorized to assume, assign and/or reject Executory Contracts or Unexpired Leases in accordance with Article V of the Plan. In the event of an inconsistency between the Plan and any Executory Contract or Unexpired Lease assumed under the Plan, the provisions of the Plan shall govern.

(b) Pursuant to Article V of the Plan, all Executory Contracts and Unexpired Leases between the Debtor and any Person shall be deemed rejected by the Debtor, as of the Effective Date, except for any Executory Contract or Unexpired Lease (i) that has been assumed, assumed and assigned, or rejected pursuant to an order of the Bankruptcy Court entered prior to the Effective Date, (ii) as to which a motion or notice for approval of the assumption, assumption and assignment, or rejection of such Executory Contract or Unexpired Lease has been filed and served prior to the Confirmation Date, or (iii) that is specifically designated as a contract or lease to be assumed on Exhibit D to the Plan.

(c) Subject to and upon the occurrence of the Effective Date, entry of this Confirmation Order shall constitute (i) the assumption or assumption and assignment of the Executory Contracts and Unexpired Leases assumed or assumed and assigned pursuant to Section 5.1.1 of the Plan is hereby approved pursuant to sections 365(a) and 1123(b)(2) of the Bankruptcy Code, and (ii) the rejection of the Executory Contracts and Unexpired Leases rejected pursuant to Section 5.1.1 of the Plan is hereby approved pursuant to sections 365(a) and 1123(b)(2) of the Bankruptcy Code; provided, however, that notwithstanding anything herein to the contrary, the assumption of an Unexpired Lease will be effective as of the earlier of (x) January 27, 2010, or (y) the Effective Date, without further action of the Bankruptcy Court.

(d) To the extent that such Claims constitute monetary defaults, any Cure Amount Claims associated with each Executory Contract and Unexpired Lease to be assumed pursuant to the Plan shall be satisfied, pursuant to section 365(b)(1) of the Bankruptcy Code, at the option of the Debtor or Reorganized Debtor or the assignee of the Debtor or Reorganized Debtor: (1) by payment of the Cure Amount Claim in Cash on the Initial Distribution Date or (2) on such other terms as are agreed to by the Debtor or Reorganized Debtor and the counterparty to such Executory Contract or Unexpired Lease. Pursuant to section 365(b)(2)(D) of the Bankruptcy Code, no Cure Amount Claim shall be allowed for a penalty rate or other form of default rate of interest.

(e) Notwithstanding any other provisions of the Plan, contracts and leases entered into after the Petition Date by the Debtor, including any Executory Contracts and Unexpired Leases assumed by the Debtor, shall be performed by the Debtor or Reorganized Debtor in accordance with the terms and conditions of such contracts and leases in the ordinary course of its business; provided, however, that nothing in this paragraph shall affect the

limitations on a Rejection Claim for a previously assumed nonresidential real property lease under section 503(b)(7) of the Bankruptcy Code. Accordingly, such contracts and leases and other obligations (including any assumed Executory Contracts and Unexpired Leases) shall survive and remain unaffected by entry of this Confirmation Order.

(f) Notwithstanding anything to the contrary in the Plan or this Confirmation Order, nothing in the Plan or this Confirmation Order shall release the Debtor from liability for year-end adjustments and true-ups pursuant to the terms of the Unexpired Leases which accrued prior to December 21, 2009 but which did not become due and payable until after December 21, 2009, or from any contractual indemnification obligations which were not known to the counterparty to the Unexpired Leases on or prior to December 21, 2009.

(g) The Debtor shall remain the tenant under the Unexpired Leases assumed pursuant to the Plan and shall not assign any such leases in connection with any Restructuring Transactions authorized under the Plan.

(h) To the extent a lessor of nonresidential real property timely filed an objection with respect to the Cure Amount Claim that the Debtor asserts is required to be paid in connection with assumption of a nonresidential real property lease, and such objection has not been resolved prior to the Effective Date of the Plan, notwithstanding any language in the Plan, this Confirmation Order or any related documents, the rights of each party with respect to the objection are reserved and nothing herein shall moot, adversely affect or otherwise be determinative of the rights and obligations of the parties with respect to any such objection or the underlying cure claim.

(i) The Debtor shall turn over the premises subject to the lease to be rejected between it and Ohio Factory Shops Limited Partnership (“OFS”) to OFS by the

Effective Date in broom clean condition together with all keys, key codes and alarm codes and any property remaining at the space as of the Effective Date is deemed abandoned by the Debtor and OFS shall be free to dispose of such property without liability to any party.

13. **Corporate Indemnities.** The obligations of the Debtor or Reorganized Debtor to indemnify or provide advancement to any Person serving as one of its directors, officers or employees prior to or following the Petition Date by reason of such Person's prior or future service in such capacity to the extent provided in the Certificate of Incorporation, By-Laws or similar constituent documents, by statutory law or by written agreement, policies or procedures of or with the Debtor, shall be deemed to be, and shall be treated as though they are, Executory Contracts that are assumed and assigned pursuant to section 365 of the Bankruptcy Code and Section 5.1.1 of the Plan. Accordingly, such indemnification and advancement obligations shall survive and be unaffected by entry of this Confirmation Order, irrespective of whether such indemnification or advancement is owed for an act or event occurring before or after the Petition Date.

14. **Plan Distributions.** On and after the Effective Date, distributions on account of Allowed Claims and the resolution and treatment of Disputed Claims shall be effectuated pursuant to Articles VI and VII of the Plan.

15. **Recovery Actions.** Except as provided in the Plan or in any contract, instrument, release or other agreement entered into or delivered in connection with the Plan, in accordance with section 1123(b) of the Bankruptcy Code and to the fullest extent possible under applicable law, the Reorganized Debtor shall retain and may enforce, and shall have the sole right to enforce, any claims, demands, rights and causes of action that the Debtor or its Estate holds or may hold against any Entity, including any Recovery Actions and any currently pending

actions. The Reorganized Debtor or its successors may pursue such retained claims, demands, rights or causes of action, as appropriate, in accordance with the best interests of the Reorganized Debtor or its successors holding such claims, demands, rights or causes of action. Further, the Reorganized Debtor retains its right to file and pursue, and shall have the sole right to file and pursue, any adversary proceedings against any trade creditor or vendor related to debit balances or deposits owed to any Debtor. Notwithstanding the foregoing, on the Effective Date, the Reorganized Debtor shall be deemed to waive and release any actions arising under section 547 of the Bankruptcy Code relating to any preference actions held by any Debtor or its Estate or any Reorganized Debtor against any Entity.

16. **Comprehensive Settlement of Claims and Controversies.** Pursuant to Bankruptcy Rule 9019 and in consideration for the Distributions and other benefits provided under the Plan, the provisions of the Plan, including the releases set forth in Section 9.3, shall constitute a good faith compromise and settlement of all claims or controversies relating to the rights that a holder of a Claim or Interest may have with respect to any Claim, Interest, or any Distribution to be made pursuant to the Plan on account of any Allowed Claim or Interest. Such compromise or settlement is in the best interests of the Debtor, the Reorganized Debtor, and their respective property and Claim and Interest holders, and is fair, equitable and reasonable. As of the Effective Date, the compromise or settlement of all such claims or controversies shall be approved.

17. **Claims Bar Dates and Other Claims Matters.**

(a) **Bar Date for Administrative Claims.** Pursuant to this Confirmation Order, requests for payment of Administrative Claims (except for Professional Fee Claims, Cure Amount Claims and DIP Claims) for the period of July 1, 2009 through the

Effective Date, must be filed and served on the Reorganized Debtor and, prior to the Effective Date, the Creditors' Committee, no later than thirty (30) days after the Effective Date or the first Business Day following such day (the "Administrative Claims Bar Date"). The Confirmation Notice will set forth such date and constitute notice of the Administrative Claims Bar Date. Holders of Administrative Claims that are required to file and serve a request for payment of such Administrative Claims and that do not file and serve such a request by the Administrative Claims Bar Date shall be forever barred from asserting such Administrative Claims against the Debtor, the Reorganized Debtor or their respective property and such Administrative Claims shall be deemed discharged as of the Effective Date. Objections to such requests must be filed and served on the requesting party, the Reorganized Debtor and, prior to the Effective Date, the Creditors' Committee, by the Claims Objection Deadline. Notwithstanding anything herein to the contrary, holders of Administrative Claims based on liabilities incurred by the Debtor in the ordinary course of its business shall not be required to file or serve any request for payment of such Administrative Claims.

(b) **Bar Date for Rejection Claims.** Notwithstanding anything in the Bar Date Order to the contrary, if the rejection of an Executory Contract or Unexpired Lease gives rise to a Rejection Claim by the non-Debtor counterparty or counterparties to such contract or lease, such Rejection Claim shall be forever barred and shall not be enforceable against the Debtor, the Reorganized Debtor, their respective successors or their respective properties unless a proof of Claim is filed and served on the Reorganized Debtor no later than thirty (30) days after the later of (i) notice of entry of an order approving the rejection of such executory contract or unexpired lease, (ii) entry of this Confirmation Order, and (iii) notice of an amendment to Exhibit D to the Plan.

(c) **Bar Date for Professional Fee Claims.** Professionals or other Entities asserting a Professional Fee Claim for services rendered from the Petition Date to the Effective Date must file with the Bankruptcy Court and serve on the Reorganized Debtor and such other Entities who are designated by the Bankruptcy Rules, the Fee Order or other order of the Bankruptcy Court a Final Fee Application no later than forty-five (45) days after the Effective Date; provided, however, that any professional who may receive compensation or reimbursement of expenses pursuant to the Ordinary Course Professionals Order may continue to receive such compensation and reimbursement of expenses for services rendered from the Petition Date to the Effective Date, without further Bankruptcy Court review or approval, pursuant to the Ordinary Course Professionals Order. A Professional may include any outstanding, non-filed monthly or interim request for payment of a Professional Fee Claim pursuant to the Fee Order in its Final Fee Application. Objections to any Final Fee Application must be filed with the Bankruptcy Court and served on the requesting party, the Reorganized Debtor, counsel for the Reorganized Debtor, and, prior to the Effective Date, the Creditors' Committee within thirty (30) days after the filing of the applicable Final Fee Application. To the extent necessary, this Confirmation Order or any other order with respect to a Final Fee Application shall amend and supersede any previously entered order of the Bankruptcy Court, including the Fee Order, regarding the payment of Professional Fee Claims. Any pending, filed interim requests for a Professional Fee Claim pursuant to the Fee Order shall be resolved in the ordinary course in accordance with the Fee Order or, if sooner, in connection with the particular Professional's Final Fee Application.

(d) **Amendments of Timely Filed Claims.** Notwithstanding anything to the contrary in the Plan or this Confirmation Order, nothing in the Plan or this Confirmation

Order shall prohibit creditors from amending Timely Claims; provided, however, that the Debtor reserves all rights to object to such claims on any and all grounds, including that any amended Claim does not relate back to a Timely Claim.

(e) **28 U.S.C. § 1930 Fees**. On or before the Effective Date, fees payable pursuant to 28 U.S.C. § 1930 plus accrued interest under 31 U.S.C. § 3717, as determined at the Confirmation Hearing by the Bankruptcy Court, shall be paid in Cash in full by the Debtor or Reorganized Debtor. All fees arising after the Effective Date and payable pursuant to 28 U.S.C. § 1930 plus accrued interest under 31 U.S.C. § 3717 shall be paid by the Reorganized Debtor in accordance therewith until the closing of the Chapter 11 Case pursuant to section 350(a) of the Bankruptcy Code.

18. **Plan Implementation.**

(a) Pursuant to section 1142 of the Bankruptcy Code and applicable state law, the following actions (which will occur and be deemed effective as of the date specified in the documents effectuating the same or, if no date is so specified, the Effective Date) shall be authorized and approved in all respects and for all purposes without any requirement of further action by stockholders or directors of the Debtor or the Reorganized Debtor or any other Person or entity: (a) the Restructuring Transactions; (b) the adoption of a new or amended and restated Certificate of Incorporation and By-Laws for the Reorganized Debtor; (c) the initial selection of directors and officers for the Reorganized Debtor; (d) the Distribution of Cash pursuant to the Plan; (e) the filing of any necessary registration statements; (f) the adoption, execution, delivery and implementation of all contracts, leases, instruments, releases and other agreements or documents related to any of the foregoing; (g) the adoption, execution and implementation of employment, retirement and indemnification agreements, incentive

compensation programs, retirement income plans, welfare benefit plans and other employee plans and related agreements; and (h) any other matters involving the corporate structure of the Debtor or Reorganized Debtor or corporate action to be taken by or required of the Debtor or Reorganized Debtor.

(b) Each federal, state, commonwealth, local, foreign or other governmental agency is hereby directed and authorized to accept any and all documents, mortgages and instruments necessary or appropriate to effectuate, implement or consummate the transactions contemplated by the Plan and this Confirmation Order.

(c) All transactions effected by the Debtor during the pendency of the Chapter 11 Case from the Petition Date through the Confirmation Date are approved and ratified.

19. **No Change in Control.** Notwithstanding anything to the contrary in any contract, agreement or lease to which the Debtor or Reorganized Debtor is a party, (i) the transactions contemplated by the Plan and (ii) the consequences of the Plan's implementation shall not trigger any change in control or similar provisions and shall not be voided by any restraints against assignment in any contract, agreement or lease governed by the Plan.

20. **Binding Effect of This and Prior Orders; Immediate Effectiveness.** Pursuant to section 1141 of the Bankruptcy Code, effective as of the Confirmation Date, but subject to the occurrence of the Effective Date and subject to the terms of the Plan and this Confirmation Order, all prior orders entered in the Chapter 11 Case, all documents and agreements executed by the Debtor as authorized and directed thereunder and all motions or requests for relief by the Debtor pending before the Bankruptcy Court as of the Effective Date shall be binding upon and shall inure to the benefit of the Debtor, the Reorganized Debtor and

their respective successors and assigns. Accordingly, as permitted by Bankruptcy Rule 3020(e), the ten (10) day period provided by such rule is hereby waived in its entirety.

21. **Final Order.** This Confirmation Order is a Final Order, and the period in which an appeal must be filed shall commence immediately upon the entry hereof.

22. **Reversal.** If any or all of the provisions of this Confirmation Order are hereafter reversed, modified or vacated by subsequent order of this Bankruptcy Court or any other court, such reversal, modification or vacatur shall not affect the validity of the acts or obligations incurred or undertaken under or in connection with the Plan prior to the Debtor's receipt of written notice of such order. Notwithstanding any such reversal, modification or vacatur of this Confirmation Order, any such act or obligation incurred or undertaken pursuant to, and in reliance on, this Confirmation Order prior to the effective date of such reversal, modification or vacatur shall be governed in all respects by the provisions of this Confirmation Order and the Plan and all related documents or any amendments or modifications thereto.

23. **Notice of Confirmation of the Plan.** Pursuant to Bankruptcy Rules 2002(f)(7) and 3020(c)(2), the Debtor or the Reorganized Debtor is directed to serve a notice of the entry of this Confirmation Order and the establishment of bar dates for certain Claims hereunder, substantially in the form of Appendix 2 attached hereto and incorporated herein by reference (the "Confirmation Notice"), on all parties that received the Confirmation Hearing Notice, no later than 5 Business Days after the Confirmation Date; provided, however, that the Debtor or the Reorganized Debtor shall be obligated to serve the Confirmation Notice only on the record holders of Claims or Interests as of the Confirmation Date. As soon as practicable after the entry of this Confirmation Order, the Debtor shall make copies of this Confirmation

Order and the Confirmation Notice available on Epiq's website at <http://chapter11.epiqsystems.com/Crabtree>.

24. **Modification of the Plan.** Subject to the restrictions on modifications set forth in section 1127 of the Bankruptcy Code, the Debtor or the Reorganized Debtor, as applicable, is authorized to alter, amend or modify the Plan and the Exhibits to the Plan at any time before its substantial consummation; provided, however, that after entry of this Confirmation Order, (i) the Plan as modified shall meet the requirements of sections 1122 and 1123 of the Bankruptcy Code, (ii) shall comply with section 1125 of the Bankruptcy Code, (iii) that circumstances warrant such modifications and (iv) the Bankruptcy Court enters an order confirming the Plan as modified.

25. **Dissolution of the Creditors' Committee.** On the Effective Date, the Creditors' Committee shall be dissolved and its members shall be deemed released of any continuing duties, responsibilities and obligations in connection with the Chapter 11 Case or the Plan and its implementation, and the retention and employment of the Creditors' Committee's attorneys, accountants and other agents shall terminate, except with respect to: (i) any matters concerning the Distributions to be made under the Plan through the date upon which the first Distributions are made after the Effective Date; (ii) all Professional Fee Claims through a final hearing on Professional Fee Claims for Professionals; or (iii) any appeals of this Confirmation Order through the date such appeals are finally decided, settled, withdrawn or otherwise resolved. Counsel to the Creditors' Committee shall be entitled to reasonable compensation and reimbursement of actual, necessary expenses for post-Effective Date activities authorized hereunder upon the submission of invoices to be paid by the Reorganized Debtor. Copies of such invoices shall be sent to the Reorganized Debtor. The Reorganized Debtor is authorized to

pay such invoices without further order of the Bankruptcy Court. If the Reorganized Debtor disputes the amount of any such invoice, it may bring the matter before the Bankruptcy Court.

26. **Miscellaneous Provisions**

(a) Except as otherwise provided in the Plan, this Confirmation Order, and with respect to Fee Claims, notice of all subsequent pleadings in the Chapter 11 Case shall be limited to counsel to the Debtor, the United States Trustee and any party known to be directly affected by the relief sought.

(b) The failure to reference or discuss any particular provision of the Plan in this Confirmation Order shall have no effect on the validity, binding effect and enforceability of such provision and such provision shall have the same validity, binding effect and enforceability as every other provision of the Plan.

(c) Without intending to modify any prior order of this Bankruptcy Court (or any agreement, instrument or document addressed by any prior order), in the event of an inconsistency between the Plan, on the one hand, and any other agreement, instrument, or document intended to implement the provisions of the Plan, on the other, the provisions of the Plan shall govern (unless otherwise expressly provided for in such agreement, instrument, or document). In the event of any inconsistency between the Plan or any agreement, instrument, or document intended to implement the Plan, on the one hand, and this Confirmation Order, on the other, the provisions of this Confirmation Order shall govern.

(d) The business and assets of the Debtor shall remain subject to the jurisdiction of this Bankruptcy Court until the Effective Date. Notwithstanding the entry of this Confirmation Order, from and after the Effective Date, the Bankruptcy Court shall retain such

jurisdiction over the Chapter 11 Case as is legally permissible, including jurisdiction over those matters and issues described in Article X of the Plan.

Dated: January 14, 2010
New York, New York

/s/Burton R. Lifland
HONORABLE BURTON R. LIFLAND
UNITED STATES BANKRUPTCY JUDGE